

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

MANAGEMENT PLAN FOR THE
EFFECTIVE UTILIZATION OF COURT
REPORTERS



February 2009

MANAGEMENT PLAN FOR THE EFFECTIVE UTILIZATION OF COURT REPORTERS FOR THE DISTRICT OF NEW HAMPSHIRE

OBJECTIVE/APPLICABILITY

The Management Plan for the Effective Utilization of Court Reporters for the District of New Hampshire ("Plan") is designed to address court reporter day-to-day management and supervision of an efficient and effective court reporting service. The Plan is applicable to all official court reporters, substitute, contract and *per diem* reporters utilized or employed in the District of New Hampshire.

APPROVAL OF MANAGEMENT PLAN

This Plan complies with all requirements regarding court reporters as established by the Judicial Conference of the United States ("Judicial Conference"), as well as with the Court Reporter Act, 28 U.S.C. § 753. Pursuant to Judicial Conference policy, the original Plan must be presented to and approved by the First Circuit Judicial Council ("Judicial Council"). When the Plan is amended, it shall also be presented to and approved by the Judicial Council in order to ensure that it contains all required elements. A copy of this Plan and any amended Plans shall be sent to the Administrative Office of the United States Courts ("Administrative Office") for review.

CLERK OF COURT

The Clerk of Court ("Clerk") has been delegated the authority to exercise supervision and management over all court reporters, which shall include the authority to hire and terminate their employment. The Clerk may designate a Court Reporting Supervisor ("CRS") if deemed beneficial.

COURT REPORTING SUPERVISOR

In order to further the court's mission of effective and efficient utilization of court reporting services in the day-to-day management, a CRS may be designated by the Clerk. Most court reporting duties and responsibilities, however, are either shared by all court reporters working together or are accomplished on an individual basis. It is the duty and responsibility of all court reporters to implement the elements of this Plan.

Court Reporting Supervisor Duties and Responsibilities

- Ascertaining that a contract, *per diem*, or substitute court reporter certifies the original notes and files them with the Clerk; safekeeping of notes, tapes and logs; monitoring production, delivery, compliance with format

requirements; and properly bills the parties for transcripts. The CRS is also responsible for evaluating and assuring the quality of service provided.

- Assisting retired or separated court reporters in obtaining their notes and acting as a liaison between those reporters and the ordering party.
- Acting as a liaison to the Court of Appeals as to matters pertinent to court reporters and transcript production.
- Standardizing the filing of notes of all court reporters in order to expedite referencing.

DUTIES AND RESPONSIBILITIES SHARED BY ALL COURT REPORTERS

- Assigning and reassigning reporters for the purpose of distributing fairly and equitably the workload of all reporters, minimizing travel, and assuring the lowest overall cost to the government.
- Minimizing the use of substitute, contract, and *per diem* reporters.
- Assisting in avoiding backlogs of transcripts and assuring prompt delivery.

INDIVIDUAL DUTIES AND RESPONSIBILITIES

- Monitoring and keeping a record of all transcript/tape orders.
- Maintaining and reviewing AO38 Attendance Ledger to assure proper maintenance and accuracy.
- Reviewing records and reports required by the Administrative Office and the Judicial Conference. Certifying that forms AO 40A, Attendance and Transcripts of United States Court Reporters, AO 40B and Statement of Earnings of United States Court Reporters have been reviewed prior to submission to the Administrative Office by the CRS.
- Reviewing for timeliness and accuracy and furnishing copies to the CRS of all records and reports mandated by the Judicial Conference.
- Reviewing transcript billings to assure that authorized transcript rates are charged and that billing is in proper form.

- Reviewing of transcript format to assure full compliance with the format requirements of the Administrative Office and the Judicial Conference.
- Properly executing CJA Form 24, Authorization and Voucher for Payment of Transcript (Attachment #1).
- Performing such other duties to enhance the efficient operation of court reporting services to this Court.

RECORDING OF PROCEEDINGS

Pursuant to 28 U.S.C. § 753(b), each session of the court and every other proceeding designated by rule or order of the court or by one of the judges shall be recorded verbatim by shorthand, mechanical means, electronic sound recording, or any other method, subject to regulations promulgated by the Judicial Conference and subject to the discretion and approval of the judge. Proceedings to be recorded under this section include (1) all proceedings in criminal cases had in open court; (2) all proceedings in other cases had in open court unless the parties with the approval of the judge shall agree specifically to the contrary; and (3) such other proceedings as a judge of the court may direct or as may be required by rule or order of the court (*other*) as proceedings as may be requested by any party to the proceeding. Local Rule 80.1 (a) requires a record made of trials, hearings on temporary restraining orders, hearings on preliminary injunctions, criminal proceedings, and pro se hearings. Parties may request a record of other proceedings no later than two (2) days prior to the proceeding.

APPOINTMENT, EMPLOYMENT, AND DISMISSAL/SEPARATION

Appointment

The Judicial Conference determines the number of authorized official court reporters for each court. The norm has been, and remains, one official staff reporter or electronic court recorder operator per on-board active district judge. Pursuant to Judicial Conference guidelines, a senior judge who either meets minimum in-court hour requirements or who draws cases substantially on the same basis as active judges in the district is entitled to be certified for a court reporter. This Court presently employs 3 full-time court reporters.

Court reporters shall be appointed in accordance with the provisions of the Court Reporter Act, 28 U.S.C. § 753, and the policies and procedures of both the Administrative Office and the Judicial Conference. The reporters are subject to the supervision of the appointing court and the Judicial Conference in the performance of their duties, including dealings with parties requesting transcripts. Only persons

meeting the qualifications formulated by the Judicial Conference and stated herein shall be appointed as official court reporters for this Court. 28 U.S.C. 753(a).

Pursuant to Judicial Conference policy, all initial appointments shall be on a probationary basis for a period of six months. Upon appointment, each reporter shall take an oath faithfully to perform the duties of his/her office. *Id.* As a condition of employment, background investigations, including finger printing, are now mandatory for all new employees who are appointed to positions in the federal court system. This includes contractors (substitute, contract, or *per diem* reporters) with duties that would otherwise be performed by judiciary employees working in such similar positions.

Employment

Court reporters are neither employed by nor part of the personal staff of an individual judge. They are employed by the court *en banc*. Therefore, court reporter duties must be assigned in a manner that will equally distribute the total court reporting workload efficiently and cost effectively among any active judges, senior judges, magistrate judges, and visiting judges.

Leave

Upon assignment to a regular tour of duty, official court reporters shall earn annual and sick leave in accordance with the provisions of the Leave Act, 5 U.S.C. § 6301, et seq. All other provisions of the Leave Act shall also apply. Leave records for official court reporters shall be maintained by the Clerk in the same manner as those of deputy clerks. All requests for leave shall be submitted electronically, using ELMO. Application for leave must be approved by the Clerk or Chief Deputy Clerk.

Annual and sick leave are chargeable in half-hour increments. All annual leave requested must be accrued before it may be used. Planned sick leave (i.e. appointments, treatments, etc.) must be requested far enough in advance to permit the scheduling of an alternate reporter.

If a court reporter is ill, the CRS shall be notified by 7:00 a.m. If an additional reporter is required, the CRS shall attempt to secure such services on behalf of the court if at all possible. In this circumstance, the CRS will advise the deputy clerks that an official reporter is out and that a contract reporter will be available or one needs to be hired.

A court reporter shall activate an answering machine or voice mail system during any absence from the office.

Salary

The annual salary of a court reporter is primarily payment for recording court proceedings in court and in chambers, for producing transcripts requested by a judge, and for filing required copies of transcripts with the Clerk.

As the preparation of a transcript for parties is not compensated by the annual salary, if a reporter is not available to record a proceeding because of transcript production, the reporter must hire a substitute unless on approved annual leave.

Hours

Court reporters are placed on a “regular tour of duty” from the hours of 8:00 a.m. to 5:00 p.m.

When reporters are not needed to record the proceedings of judicial officers during their regular tours of duty, they are to remain available in the courthouse and may prepare official transcripts as required by 28 U.S.C. § 753 or by rule or order of court, including transcripts for which they are entitled to collect a fee from a party or the United States under 28 U.S.C. § 753. Guide to Judiciary Policies and Procedures ("Guide"), Vol. 6, Court Reporters Manual (CRM), Chapt. 4, Part 4.6.6.

Reporters may not engage in private reporting or transcribing activities, or other private business of any kind, during their regular tour of duty. Like any other court employee, they must seek permission of the Clerk if any outside after-hour employment is anticipated.

Dismissal/Separation

If at any time the overall work volume of the Court does not justify retention of the full complement of court reporters, a reduction shall be accomplished through relocation, attrition, or by giving a reasonable notice of termination.

Court reporters may be subject to discipline or termination consistent with the policies and procedures applicable to Clerk’s Office staff. See, e.g. 28 U.S.C. § 751 (b).

Whenever a court reporter resigns, retires or is terminated (“separated court reporter”), he or she will be required to meet with the Clerk or CRS regarding his/her responsibilities for the (a) filing of all official notes and tape recordings; and, (b) preparation of all transcripts which are currently ordered but not yet filed or which might be ordered after separation.

Any separated court reporter remains responsible for producing requested transcripts of proceedings recorded during their period of employment at the rates in effect at the time the transcript was ordered. Court reporters must make every effort to serve the ordering party by producing the transcript according to the delivery schedule established by the Judicial Conference.

Court reporter notes are the property of the Court and must remain in the custody of the Clerk. A separated court reporter may retain a copy of their notes to assist in streamlining the transcript process. The notes may be removed only for purposes of providing a transcript. The CRS should assist the separated court reporter in obtaining the notes and act as the liaison between the separated court reporter and ordering party. Transcripts will be produced by official court reporters still on staff only in the event of unavailability or unwillingness of the separated court reporter to produce transcripts.

ASSIGNMENTS

In determining the availability of a court reporter for a general assignment, every effort will be made to assure that the burden of the court reporting work of the Court is evenly distributed among the court reporters. The CRS or another court reporter shall attend the weekly calendar meeting held in the Clerk's Office with the deputy clerks. After that meeting, the court reporters shall meet together to determine scheduling coverage for the upcoming week. The court reporters will attempt to equally distribute the anticipated reporting work for the upcoming week, but may make adjustments for court reporters who may be behind in hours due to cancellation of hearings and/or backlog on expedited transcript.

Each court reporter shall maintain detailed records showing their individual contribution to the overall assignments of reporting court proceedings. These records (Time and Attendance Ledger) will detail, for each general court reporting assignment, the specific court reporter who performed the assignment and the amount of time spent by each court reporter performing specific duties. These records will be available at any reasonable time for inspection by any court reporter employed by the Court or by the Clerk.

During a regular tour of duty, the Clerk may assign to the court reporter whatever additional duties he feels are necessary for the Court to function efficiently. These duties may impact time otherwise available to produce transcripts for a fee. By agreement, the official reporters have assumed the responsibility for the production of transcripts from our Electronic Sound Recording Equipment when so requested and properly ordered.

Production of hourly or daily transcripts will not be subsidized by the Court. If extra court reporters are required to produce hourly or daily transcripts, the cost of such reporters shall be paid by the official court reporter. This provision does not prohibit other official court reporters from assisting in producing such transcripts when 1) there are no other proceedings to report, and 2) no transcript backlog will result for the court reporters providing assistance. The individual court reporter who receives the request to produce hourly or daily transcripts shall make the initial decision as to whether to comply with the request. However, because production of hourly and daily transcripts could delay delivery of existing transcript orders and burden other court reporters covering of other proceedings, the Court, Clerk and other court reporters shall make a joint decision if the circumstances warrant. If no joint decision can be reached, the Court, or the Clerk if delegated to do so, shall make the final decision.

REPORTS

As part of their salaried tasks, court reporters are to submit various reports required by the Judicial Conference. If the reports are not submitted within the time limitations set by the Judicial Conference, the Conference has authorized the Administrative Office to withhold salary payments. The reports shall be kept confidential. (Guide, Vol. 6, Chapt. 5, Part 5.1).

In order to permit the routine audit and inspection of records, court reporters must maintain accurate, legible and up-to-date records of their 1) expenses, 2) attendance in court, 3) fees charged and fees collected for transcripts, 4) quantity of transcripts prepared, and 5) transcript orders and invoices. Such records shall be maintained on forms prescribed by the Judicial Conference and shall include, but are not limited to, the following:

1. Form AO 40A, Attendance and Transcripts (Attachment #2): Hours reported shall be in compliance with the guidelines outlined in the Guide, Vol. 6, Chapter 22. Form to be completed and submitted quarterly so that it is received within 20 days after the end of each quarter, i.e., by April 20, July 20, October 20, and January 20 for the preceding quarter. Separated court reporters shall file this form within 20 days from the date of separation. After review by the Clerk, all forms shall be mailed (or submitted on-line once authorized) together by the CRS to the Administrative Office (address provided in the Guide, Vol. 6, Chapter 22), with a copy being filed with each court reporter.
2. Form AO 40B, Statement of Earnings (Attachment #3): Form submitted by April 15 of each year. Separated court reporters shall file this within 60 days from the date of separation. After review by the Clerk, the court reporters shall mail their own original form to the Administrative Office (address provided in the Guide, Vol. 6, Chapter 22) and shall keep a copy for their own records.

In order to complete the forms AO 40A and AO 40B, the following forms shall be completed and maintained:

1. Form AO 37, Expense Ledger (Attachment #4): Because the court reporters have designed their own ledger system that encompasses this requirement, they do not use this specific form. An account payable or expense is an amount owed to a creditor that results from a written contract, an oral contract, or an implied promise to pay.
2. Form AO 38, Attendance Ledger (Attachment #5): A daily log of time spent recording official proceedings in court and in chambers by the court reporter and/or a substitute. This report is prepared monthly. The preparer shall keep the original and distribute a copy to each court reporter.
3. Form AO 39, Transcript Orders and Collections Ledger (Attachment #6): This form is used to record all orders, transcript page count, and all monies collected from the sale of transcripts. This report is kept on a continuing basis by year. The reporters shall keep their own originals. No copies are distributed.
4. Form AO 44, Invoice (Attachment #7): This form is an itemized statement of the transcripts sold to a party. It is prepared by the court reporter and is a sale invoice that consists of the following: The original (or copy 1) shall be given to the party. Copy 2 shall be retained by the court reporter and used as the accounts receivable file copy.

Court reporters are not required to file form AO 10, Financial Disclosure Reports.

PROVISIONS/SUPPLIES

The Court shall provide space for reporters (excluding contract reporters) to conduct their official business, including the transcription of official transcripts by themselves, their transcribers, or by computer aided transcription equipment. Court reporters are allotted office space and storage space for use in the conduct of official business. (Guide, Vol. 6, Chapt. 6, Part 6.1)

The Judicial Conference has determined that under the Court Reporters Act, the expense of a court reporter's telephone service may be paid by the government. The court reporters also may be allowed to use a government computer so they can access the Court's e-mail system as well as other systems, including access to the Internet. However, they, like other court employees, must read and sign the Court's reasonable

use policy. While transmission of electronic copies of transcripts via the Court's DCN is not allowed, use of the court's wireless (attorney's) network is permissible. All other supplies shall be furnished by the reporter at their own expense. 28 U.S.C. § 753(e). Court reporters shall also provide their own copying facilities, such as photocopying machines. They may not routinely use the Court's copying equipment for transcripts. Copy fees are established by the Judicial Conference and must be charged for any private copying done. Court reporters shall pay for their own postage and all associated expenses of all mailings, including official mailings.

CONTRACT/PER DIEM COURT REPORTERS (Guide, Vol. 6, Chapt. 11)

Through efficient scheduling, the use of contract and *per diem* court reporters shall be kept to an absolute minimum. Contract reporting services must abide by the requirements of 28 U.S.C. § 753 and requirements of the Judicial Conference. Contract reporters may be hired to cover visiting judges, illness, vacation, or other absences if no other official court reporter is able to cover court proceedings. Form AO 336, Voucher for Attendance Fees for Contract Court Reporters (Attachment #8) (Guide, Vol. 6, Chapt. 11, Part 11.6) shall be used for compensation and to report hours claimed by contract court reporting agencies. A contractor serves only on an "as needed" basis. Contractors are required to attend the general needs of the Court.

Additionally, the Court is allowed to hire a contract court reporter [to assist an official reporter] when the official court reporter has requested relief because 1) a judge has scheduled more than one trial per day, 2) the reporter is reporting for at least five hours on each such day, and 3) the Court's other official court reporters are unable to cover the proceedings because they are scheduled to report other proceedings or are on leave.

Contractual services paid for by the Court may not be used to assist the Court's official reporters in the production of expedited, daily, or hourly transcript, nor to replace the court reporters to allow them to engage in transcript production or in private reporting work. Contractual attendance fees cannot be levied against parties. The costs associated with such contract reporting service shall be paid by the official reporter so relieved.

SUBSTITUTE COURT REPORTERS (Guide, Vol. 6, Chapt. 10)

"There is no provision in the Leave Act for hiring substitutes to cover any absence. The use of substitutes should be limited to expedited, daily, or hourly transcript work; and for reporters not on a tour of duty or under the Leave Act, for absence due to illness, vacations, or reasons beyond the court report's control." A

court reporter must obtain advance approval from the Clerk prior to hiring a substitute. When the official court reporter is unable to complete their transcripts in a timely fashion and no assistance is available by virtue of reassignment, the Court may direct a court reporter to hire a substitute at the reporter's expense to record proceedings while the reporter works on the backlog of transcripts. In this case, the official court reporter may choose to compensate the substitute or be put on leave without pay and have the Court do so.

FREELANCE OR PRIVATE REPORTING (Guide, Vol. 6, Chapt. 15)

While freelance or private reporting by an official court reporter is generally not allowed, permission may be granted in special circumstances. It is within the Court's discretion whether or not court reporters are allowed to engage in private reporting.

Grand jury reporting, taking of depositions, and any other activities not related to salaried or statutory duties are private reporting. Activities not related to recording court sessions and preparing official transcript for court sessions are considered private reporting. If allowed, fees for transcripts for grand jury proceedings and depositions are considered private income and must be reported as such on Form AO 40B, Statement of Earnings of United States Court Reporters.

Any space provided by the Court is to be used only in support of the court reporter's official duties. If the Court permits a reporter to conduct and develop a private reporting business, the court reporter must conduct such work on private premises wholly disassociated from the official activities of the court reporter. All advertising should refer to the private office. Court reporters may not use their addresses in government-owned or leased buildings when advertising for private reporting work. Any person the court reporter hires for private reporting activities may not be housed in office space assigned to the court reporter for official duties within the courthouse or other federal building.

Space, equipment, and supplies necessary to private reporting work are to be provided at the court reporter's expense. Letterheads are supply items and must be provided at the court reporter's expense. General Services Administration regulations prohibit court reporters from using letterheads that bear the address of the United States courthouse or other federal building in which they have been assigned office space if the letterheads include advertisements for private reporting work, such as taking depositions. Postage for any mail that the court reporter uses for private reporting work is to be paid by the court reporter, which is the same as mail for official reporting work.

All income from private reporting work, including both attendance fees and charges for transcripts, shall be reported on Form AO 40B, Statement of Earnings of United States Court Reporters.

REPORTING FOR MAGISTRATE JUDGES (Guide, Vol. 6, Chapt. 12)

As a general rule, electronic sound recording equipment should be used to record proceedings conducted before a magistrate judge. Producing a record encourages dignity in the conduct of the proceedings and provides the basis for an appeal or subsequent review. Where, however, the magistrate judge determines a court reporter is required by specific rule or statute, or by the particular circumstances of an individual case, the CRS should assign one of the official court reporters. If an official court reporter is not available, a contract reporter may be hired and paid for by the Court; there can be no charge to the parties for the contract reporter's attendance.

The Magistrate Judge will most likely use an official court reporter for the following: motion hearings that involve witnesses or many exhibits; all trials and evidentiary hearings; misdemeanor trials; and other lengthy proceedings if a court reporter is available.

CJA AND IN FORMA PAUPERIS PROCEEDINGS (Guide, Vol. 6, Chapt. 13)

Court reporters are to be paid for transcripts provided to parties proceeding under the Criminal Justice Act or in *habeas corpus* proceedings to persons allowed to sue, defend, or appeal *in forma pauperis* if and only if approved by a judicial officer. 28 U.S.C. § 753(f).

In the absence of prior special authorization, trial transcripts shall exclude prosecution and defense opening statements, prosecution argument, defense argument, prosecution rebuttal, voir dire, and the jury instructions.

Routine apportionment of accelerated transcript costs among parties in CJA cases is prohibited. If an exception is granted as to this policy, such finding should be reflected on the transcript voucher.

In multi-defendant cases involving CJA defendants, no more than one transcript should be purchased from the court reporter on behalf of CJA defendants, unless otherwise ordered by the Court. One of the appointed counsel or the Clerk should arrange for the duplication, at commercially competitive rates (which should be monitored by the Court on a periodic basis to ensure accuracy and compliance with the guideline), of enough copies of the transcript for each of the CJA defendants for whom

a transcript has been approved. The cost of such duplication will be charged to the CJA appropriation. This policy would not preclude the furnishing of duplication services by the court reporter at the commercially competitive rate.

All transcripts produced under the terms of the Criminal Justice Act shall be billed on Form CJA 24. Copies of this form and instructions for its completion have been furnished to the court reporters by the Clerk.

The Clerk shall verify receipt of all CJA transcripts and shall ascertain the propriety of each voucher before submitting same to the appropriate judicial officer for approval. Payment shall be made by the Clerk upon approval of the judge or magistrate judge as may be deemed appropriate.

OUT-OF-DISTRICT TRAVEL (Guide, Vol. 6, Chapt. 7)

When a court reporter is required to be away from their official station on official business, the government pays travel and subsistence expenses. Authorization for such travel can be approved only when it is performed at the direction of a judge or the Court through the CRS and is for the purpose of recording court proceedings. It is the responsibility of the Clerk to approve scheduled travel by court reporters.

COURT REPORTERS' NOTES AND TAPES: READABILITY AND STORAGE

Readability

The work of the court reporters shall be "note-readable" so that stenographic notes of a court reporter can be read by another reporter in the event of an emergency.

Storage

Pursuant to 28 U.S.C. § 753(b), the court reporter or other individual designated to produce the record shall attach their official certificate to the original shorthand notes or other original records so taken and promptly file them with the Clerk, who shall preserve them in the public records of the court for not less than ten years. The Clerk has designated that the notes and tapes be kept in the court reporters' storage office, which is accessible to all court reporters. Each court reporter shall physically store and maintain their own original notes and tapes, whether recorded on paper or on floppy disk, CD, or other electronic format, and are responsible for their safe keeping. Each court reporter has their own individual file cabinet drawer that is labeled by date. The

notes are marked with the case title, date, and type of hearing. Computerized diskettes are stored and maintained by the individual reporters in their offices initially, then stored in a joint fire proof cabinet in the shared storage space. Each individual court reporter shall also keep in their offices a binder of daily bulletins/calendars, which note the time-in-court and tape reference.

The original notes or other original records, as well as the copy of the transcript in the Office of the Clerk, shall be open during office hours to inspection (with 24 hour advance notice) by any person without charge and shall be preserved for not less than ten years. Id.

TRANSCRIPTS

All transcripts will accurately reflect the proceedings reported and will conform to approved transcript format (Guide, Vol. 6, Chapt. 18, Transcript Format) and fee schedule (Guide, Vol. 6, Chapt. 20, Transcript Fees).

Transcript orders shall be filed with the individual court reporter. The Order of Priority given to transcript production is as follows: criminal cases wherein the defendant is incarcerated; criminal cases wherein the defendant is on bail pending appeal, cases on appeal; non-appeal criminal cases; non-appeal civil cases; and all other transcripts. Court reporters shall give priority to transcripts for criminal appeals that challenge sentences imposed under the sentencing guidelines issued by the U. S. Sentencing Commission pursuant to 18 U.S.C. § 3742.

Transcripts of criminal cases shall take priority over civil cases, unless a judge or the Clerk directs to the contrary. A Judge or the Clerk may relax the requirements of Expedited and Daily Copy transcripts if the interests of justice would be better served thereby.

Any variance from the priority list of transcripts to be furnished by official court reporters must be approved by the Court of Appeals, the District Court or the Clerk.

Filing of Transcripts

In accordance with 28 U.S.C. § 753(b), court reporters are required to file with the clerk either a transcript or maintain an electronic sound recording of all arraignments, pleas, and sentencings. The court reporter should file these transcripts within 30 days of the close of the proceeding unless it was recorded on electronic sound recording equipment, in which event the electronic recording, accompanied by a certification of the reporter, shall be maintained as soon as the recording has been used to capacity in the court reporters' storage office, which is accessible to all reporters. Tapes shall be maintained for ten years and shall be clearly marked with date and defendant's name.

Additionally, any party to any proceeding which has been recorded who has agreed to pay the fee therefor, or a judge of the court, may request the court reporter or

other individual designated to produce the record. 28 U.S.C. § 753(b). The court reporter shall promptly transcribe the original record, attach their official certificate, and deliver same to the requestor, *id.*, which shall normally occur within 30-60 days of the request. The original transcript shall be promptly filed with the Clerk, *id.*, which should occur concurrently with but not later than 3 working days after delivery to the requesting party. Court reporters shall work amongst themselves in protracted cases in order to minimize backlog problems.

Transcripts for appealed cases should be delivered within 60 days from the date ordered or from the date satisfactory arrangements for payment have been made. If the court reporter does not require prepayment in a particular case, the 60-day period begins upon acceptance of the transcript order by the court reporter.

Filing of Redacted Transcripts

Pursuant to Fed. R. Civ. P. 5.2 and Fed. R. Crim. P. 49.1, certain personal identifiers should be redacted from documents filed with the Court. Pursuant to ECF Administrative Procedure 4.2(b), any party who purchases a transcript shall review the transcript and, to the extent it contains personal identifiers, shall file a Transcript Redaction Request within 21 calendar days of the filing of the transcript. The court reporter must file a redacted transcript within 31 days of filing of the original transcript or request an extension from the Court. In accordance with Administrative Office guidelines, court reporters may not charge a fee for making redactions.

Transcript Format

All transcripts shall be produced in the format required by the Judicial Conference. For specifics, refer to the Guide, Vol. 6, Chapt. 18. Transcribed records are filed in the case file and disposed of as part of the case file.

Transcripts may be sold in hard copy, in portable document format ("PDF"), on computer diskettes in ASCII format, or other format requested by the ordering party and agreed to by the court reporter. These formats are available whether the requested transcript is an original, first copy or additional copies. Each page of transcript sold in PDF format or on diskette must be formatted consistent with the Judicial Conference's approved transcript format guidelines and may not contain any protection or programming codes that would prevent copying or transferring the data. As with diskettes, court reporters who have the capability may sell compressed transcripts on a per page basis. However, there is no requirement to provide such service.

Transcript Fees and Delivery Times

No official court reporter, substitute, contract, or *per diem* reporter employed by this district shall charge fees for transcripts of official proceedings that exceed those recommended by the Judicial Conference and adopted by the Chief Judge in this district. These fees shall be established by order of the Chief Judge and posted on the Court's webpage and prominently in the Clerk's Office.

If court reporters are found to be overcharging for transcripts by virtue of violations in page format, line format, reduction in pitch, or allowable realtime charges, they will be required to make immediate restitution and may be subject to further disciplinary action, including termination.

Extensions

A request for an extension of time pursuant to Fed. R. App. P. 11(b) shall be made in writing, preferably on the form provided by the Court of Appeals, and filed with the Court of Appeals. Any extensions granted by the Court of Appeals must be for good cause and requested no later than three days prior to the due date. An extension of time does not waive the mandatory fee reduction. To obtain a waiver, a separate request alleging appropriate circumstances must be made.

Late Delivery of Transcripts (Guide, Vol. 6, Chapt. 20, Part 20.12.1.d)

Late delivery of transcripts impedes the work of the Court. Each circuit council decides the due dates for the delivery of transcripts and the amount of penalties to be applied when such dates are not met.

Mandatory Fee Reductions

For transcripts in cases on appeal, the court reporter may charge the full price only for transcripts filed within 60 days of the date ordered. If a transcript is not delivered within 60 days, the court reporter may charge only 90% of the prescribed fee. If a transcript is not delivered within 90 days, the court reporter may charge only 80% of the prescribed fee. It is the court reporter's duty to accept a fee reduction if one is applicable.

Calculation of Time

For purposes of applying the fee reduction, the time period shall begin to run from the date the Court of Appeals docketed a compliant transcript report/order form and sets an initial deadline. If a docketed transcript report/order form is incomplete or inaccurate, or if financial arrangements subsequently fail, the court reporter must give prompt written notice and, if appropriate, the Court of Appeals will suspend the start date until the deficiency is cured.

Waiver of Mandatory Fee Reduction

A request for a waiver of the mandatory fee reduction shall be made in writing, preferably on the form provided by the Court of Appeals, and filed with the Court of Appeals. The Circuit Clerk may waive the fee reduction in true hardship cases, but shall grant such waivers sparingly and under appropriate circumstances. Appropriate circumstances include, for example, illness or incapacity of the court reporter, planned vacation, and lengthy or complex litigation. Transcript backlog is not grounds for a waiver. Court reporters are expected to hire note readers or substitutes when transcripts cannot be timely completed.

Transcript Backlog

The court reporters shall maintain time and transcript records so that backlog problems may be avoided. In the event of a buildup of pages, court reporters will work together to implement practical solutions to reduce any backlog. Such solutions might include sharing reporting responsibilities in lengthy trials or relieving a court reporter with another official court reporter when time blocks become available through settlements or postponements or early adjournments, etc. The court reporters work together to assure that each reporter works an equal number of hours in court. Request for relief will be granted based upon backlog, in-court hours, and priorities as set forth by the Court or the Clerk.

Payment for Transcript Production

A copy of the completed Form CJA 24 must accompany every transcript submitted to the Clerk for filing.

REALTIME REPORTING (Guide, Vol. 6, Chapt. 8)

Realtime reporting technologies allow the record to be electronically transcribed in the courtroom using software that instantaneously translates shorthand and displays it on a monitor in front of the judge and law clerk. At the present time, realtime will not be available to attorneys and parties. Realtime capability is mandatory for employment. All equipment, which includes hardware and software, is the responsibility of the court reporter, not the Court.

Qualifications

Official court reporters who have successfully completed the certified Realtime Reporter examination offered by the National Court Reporters Association (NCRA), or who have passed an equivalent qualifying examination, are recognized as Certified Realtime Reporters (CRRs). CRRs are permitted, but not required, to sell realtime unedited uncertified transcript in PDF format or on diskette.

Production of Realtime Unedited Transcripts

The primary purpose of realtime unedited transcript is to provide access to a draft transcript of the proceedings in PDF format or on diskette at the end of each day. It is not intended to be used in subsequent proceedings for impeachment or for any other purpose, including further distribution. A CRR providing realtime unedited transcript should offer comparable services to all parties to the proceeding.

The transcript formal guidelines prescribed by the Judicial Conference apply to realtime unedited transcript with the following exceptions:

- a. Realtime unedited transcript must be clearly marked.
- b. The realtime unedited transcript should not include an appearance page, an index, or a certification.
- c. The diskette label may be of a different color than that used on diskettes containing the text of certified transcript and labeled with the words, "Realtime Unedited Rough Draft."

The court reporter may send realtime unedited transcript by email in PDF format, on computer diskette in ASCII format, or any other format requested by the ordering party and agreed to by the court reporter. It should include any notations made to the electronic file by the ordering party during proceedings. A PDF version or diskette may not contain any protection or programming codes that would prevent copying or transferring the data.

It should be noted that when realtime unedited transcript is provided, there may be two versions of the transcript for one proceeding - unofficial and official. The realtime unedited transcript may contain errors, some of which could change the accuracy or meaning of the testimony. A realtime unedited transcript will not satisfy the requirement for the reporter to provide or file a certified transcript with Clerk or as the record on appeal.

CRRs should not sell realtime unedited transcript to anyone who is not a party to the case without prior approval of the presiding judge. It should not be made available to the public, including news organizations or other non-participants.

A sample Realtime Unedited Transcript Disclaimer is as follows:

IMPORTANT NOTICE

* PLEASE READ BEFORE USING REALTIME ROUGH DRAFT *

AGREEMENT OF PARTIES

WORKING WITH REALTIME ROUGH DRAFTS

We, the party working with realtime and rough draft transcripts, understand that if we choose to use the realtime rough draft, that we are doing so with the understanding that the rough draft is an uncertified copy.

We further agree not to share, give, copy, scan, fax, or in any way distribute this realtime rough draft in any form (written or computerized) to any party outside the realtimed trial.

However, our own experts, co-counsel and staff may have limited internal use of same with the understanding that we agree to destroy our realtime rough draft and/or any computerized form, if any, and replace it with the certified transcript upon its completion.

CASE:

TESTIMONY OF:

DATE:

REPORTER'S NOTE:

Since this trial testimony has been realtimed and is in rough draft form, please be aware that there will be a discrepancy regarding page and line number when comparing the rough draft, rough draft disk, and the final transcript. Also, please be aware that the realtime screen and uncertified rough draft transcript may contain untranslated steno, misspelled proper names, incorrect or missing Q/A symbols or punctuation, and/or nonsensical English word combinations. All such entries will be corrected on the final, certified transcript.